LANDLORD AND TENANT LAW

Fall 2014
MW 4:00 – 5:30

Professor: Rick McElvaney
Email: RMcElvaney@central.uh.edu

COURSE DESCRIPTION:

This course presents statutes and cases relating to residential and commercial landlord and tenant law in Texas. Additionally, we will explore areas that relate to landlord and tenant practice: Texas Fair Housing Act, Texas Deceptive Trade Practices Act, Bankruptcy, federal subsidized housing, negotiation strategies, and lease drafting. After completing this course, students will have the necessary legal and practical knowledge to represent landlords and tenants effectively upon starting to practice law.

Regular course attendance is required! You must attend 23 of the 28 classes to be able to take the final exam. In the event that class needs to be rescheduled at any time, I will give you advance warning on the online class discussion board if practical. There may be times when I plan to have class but get delayed in court. In those situations a notice will be placed on the discussion board and a note will be placed on the door informing you that class has been unavoidably cancelled. This will not happen often, but may happen from time to time. All postponed/cancelled classes will be rescheduled.

The final exam is scheduled for December ___, 2014. In the event you have a conflict with the final exam date, you should follow the Law Center policy to request rescheduling the final exam.

This is an ordinary University of Houston Law Center course. Accordingly, Law Center policy requires the final grade average for the course be 2.90 – 3.10 on a 4.0 scale. Class participation, including turning in all assignments, may count toward your final grade.

My office phone is (713) 743-1236 (UHLC). If you do not find me in my office (BLB-134), you should feel free to call me at any time or Email me regarding questions. There is also an online class discussion board under the “Courses” section within the “Faculty, Staff, and Students” link of the UHLC webpage.

REQUIRED TEXT

1. Cases and Materials for a course in Landlord and Tenant Law (available from UHLC Copy Center)
2. Texas Property Code (Jones McClure/West/ Online)
3. Additional cases will be provided as handouts and/or posted on the class discussion board.

ASSIGNMENTS

Each student will be assigned a set of cases. (and will serve as backup for same # cases)
* Email me your written case brief of the cases you present in class (prior to that class date).

Justice Court Observation (Due 10/15/14)
Lease Review Checklist (Due 11/12/14)
PART I: RESIDENTIAL TENANCIES

1. Leases

Definitions (p.1)
Texas Property Code § 92.001
SECTION 92.001. DEFINITIONS

Waiver or Expansion of Duties and Remedies (p.1)
Texas Property Code § 92.006
SECTION 92.006. WAIVER OR EXPANSION OF DUTIES AND REMEDIES

Residential Application Deposits (pp. 2-3)
Texas Property Code § 92.351 - § 92.355
SECTION 92.351. DEFINITIONS
SECTION 92.3515. NOTICE OF ELIGIBILITY REQUIREMENTS.
SECTION 92.352. REJECTION OF APPLICANT
SECTION 92.353. PROCEDURES FOR NOTICE OR REFUND
SECTION 92.354. LIABILITY OF LANDLORD
SECTION 92.355. WAIVER

2. Condition of Premises

Habitability/Repairs
Kammarath v. Bennett (pp. 4-7)(#A1)

Housing Codes and Building Codes

Repair or Closing of Leasehold (pp. 7 – 14)

Texas Property Code § 92.051 - § 92.061
SECTION 92.051. APPLICATION
SECTION 92.052. LANDLORDS DUTY TO REPAIR OR REMEDY
SECTION 92.053. BURDEN OF PROOF
SECTION 92.054. CASUALTY LOSS
SECTION 92.055. CLOSING THE RENTAL PREMISES
SECTION 92.056. LANDLORD LIABILITY AND TENANT REMEDIES; NOTICE AND TIME FOR REPAIR
SECTION 92.0561. TENANTS REPAIR AND DEDUCT REMEDIES
SECTION 92.0562. LANDLORD AFFIDAVIT FOR DELAY
SECTION 92.0563. TENANTS JUDICIAL REMEDIES (Note 2009 Change)
SECTION 92.058. LANDLORD REMEDY FOR TENANT VIOLATION
SECTION 92.060. AGENTS FOR DELIVERY OF NOTICE
SECTION 92.061. EFFECT ON OTHER RIGHTS

Texas Rules of Civil Procedure 509 (pp. 15-19)
RULE 509.1. APPLICABILITY OF RULE
RULE 509.2. CONTENTS OF PETITION; COPIES; FORMS AND AMENDMENTS
RULE 509.3. CITATION: ISSUANCE; APPEARANCE DATE; ANSWER
RULE 509.4. SERVICE AND RETURN OF CITATION; ALTERNATIVE SERVICE OF CITATION
RULE 509.5. DOCKETING AND TRIAL; FAILURE TO APPEAR
RULE 509.6. JUDGMENT: AMOUNT; FORM AND CONTENT; ISSUANCE AND SERVICE; FAILURE TO COMPLY
RULE 509.7. COUNTERCLAIMS
RULE 509.8. APPEAL: TIME AND MANNER; PERFECTION; EFFECT; COSTS; TRIAL ON APPEAL
RULE 509.9. EFFECT OF WRIT OF POSSESSION

Hypo: Repairs (Posted on Blackboard)

Retaliation (pp. 19-28)

Sims v. Century Kiest Apartments (pp. 19-26)(#A2)

Texas Property Code § 92.331 – 92.335 (pp. 27-28)
SECTION 92.331. RETALIATION BY LANDLORD
SECTION 92.332. NONRETALIATION
SECTION 92.333. TENANT REMEDIES
SECTION 92.334. INVALID COMPLAINTS
SECTION 92.335. EVICTION SUITS

3. Residential Landlord’s Lien (pp. 29)

Hall v. Garson (pp. 29-31)(#A3)

Texas Property Code § 54.041 - § 54.048 (pp. 31-36)
SECTION 54.001. LIEN
SECTION 54.002. PROPERTY TO WHICH LIEN ATTACHES
SECTION 54.003. EXCEPTIONS
SECTION 54.004. DURATION OF LIEN
SECTION 54.005. REMOVAL OF PROPERTY
SECTION 54.006. DISTRESS WARRANT
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SECTION 54.042. EXEMPTIONS
SECTION 54.043. ENFORCEABILITY OF CONTRACTUAL PROVISIONS
SECTION 54.044. SEIZURE OF PROPERTY
4. Eviction

Hypo: Evictions (See Blackboard)

Title VII – Protecting Tenants at Foreclosure Act (Eff. May 20, 2009)
(Supplement – See Blackboard)

Notice to Vacate (Supplement – pp. 36)
Texas Property Code § 91.001
SECTION 91.001. NOTICE FOR TERMINATING CERTAIN TENANCIES

Eviction Suits (pp. 24-29)

Texas Property Code § 24.001 - § 24.006

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SECTION 24.002. FORCIBLE DETAINER
SECTION 24.003. SUBSTITUTION OF PARTIES
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SECTION 24.004. JURISDICTION (Effective 1/1/12)
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Texas Rules of Civil Procedure 510 (pp. 37-44)

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RULE 510.11. DAMAGES ON APPEAL
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Texas Rules of Civil Procedure 510

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Texas Property Code § 24.0062
SECTION 24.0062. WAREHOUSEMANS LIEN
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Marshall v. City of San Antonio Housing Authority (pp. 95-100)(#C1)

6. Lockouts (pp. 100-114)

Exclusion of the Tenant (pp. 100-102)
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Electricity Disconnection (pp. 114))
Texas Property Code § 92.008
SECTION 92.008. INTERRUPTION OF UTILITIES

Public Utility Commission Rules *

Residential Tenant’s Right of Restoration After Unlawful Utility Disconnection
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Landlord’s Liability to Tenant for Utility Cutoff (pp. 116-117)
Texas Property Code § 92.301
SECTION 92.301. LANDLORD LIABILITY TO TENANT FOR UTILITY CUTOFF

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8. Security Deposits (pp. 117-148)

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COMMERCIAL ASSIGNMENTS – FALL 2014

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